

Appendix E

OFFICE OF COUNSEL

Provides senior policy advice and legal counsel to the District Commander and staff in the following areas:

1. Public Contract Management. Renders advice and counsel in the negotiation, award and administration of contracts. Drafts non-standard form contracts and clauses. Provides advice and counsel on the formation of contractual agreements and understandings. Reviews contractual instruments and modifications for legal sufficiency. Renders staff advice and counsel on contractual and non-contractual claims and appeals and other litigation. Advises as to the establishment of District acquisition policy.
2. Contract Industrial Labor Relations Program Management. Processes requests for wage determinations. Executes labor policy directives and programs, including the enforcement of contractual labor standards. Performs necessary coordination with the Department of Labor and State of Hawaii officials.
3. Procurement Fraud Program. Manages the District procurement fraud program to include the preparation of procurement fraud remedy plans and litigation reports. Reports cases of suspected procurement fraud and coordinates investigations and remedies with investigative agencies and the Department of Justice within the District. Provides advice and counsel on recommendations for suspension and debarment of contractors.
4. Civil Works Program. Renders advice and counsel on issues involving the District's civil works program, including project authorization, modification, and operation. Provides advice and counsel in the development, negotiation, and interpretation of project cooperation agreements. Renders staff advice and counsel and drafting support on issues involving water supply, recreation, cost sharing, and contracts.
5. Regulatory Permit Programs. Renders advice and counsel on issues involving the District's environmental and regulatory permit programs. Reviews regulatory actions for compliance with statutory and regulatory requirements related to applicable environmental and regulatory statutes and regulations including, but not limited to, the Rivers and Harbors Act of 1899 (generally Section 10); the Clean Water Act (Section 404); and the Marine Protection, Research, and Sanctuaries Act (Ocean Dumping-Section 103). Assists the Department of Justice in enforcement of regulatory statutes and regulations through establishment of enforcement policy, preparation of litigation reports and assistance to the US Attorney during civil and/or criminal litigation against violators, and in defending litigation brought against the District regarding its administration of the regulatory program.
6. Military Program Activities. Renders advice and counsel on issues involving the District's Military Program activities, to include Military Construction, Minor Military Construction,

Operation and Maintenance funded construction, and the Base Realignment and Closure (BRAC) programs.

7. Support for Others Program. Renders advice and counsel on issues involving the District's Support for Others activities including Non-Appropriated Fund activities, the Department of the Interior, the National Aeronautics and Space Administration, the Department of Veterans Affairs, and other agencies.

8. Environmental Restoration Program. Provides advice and guidance on issues involving the District's Hazardous Toxic Radioactive Waste (HTRW) program and related litigation. Advises the District in the execution of the Defense Environmental Restoration Program (DERP), pursuant to 10 USC 2701-2707. This program includes the Installation Restoration (IR) and Formerly Used Defense Sites (FUDS) programs, where potential contamination is investigated and, as necessary, clean-ups are conducted, as well as Other Hazardous Waste (OHW) Operations and Building Demolition and Debris Removal (BD/DR) programs.

9. Litigation Activities. Renders advice and counsel on all litigation involving the District, including environmental, regulatory, tort, admiralty, contract, labor, and water rights cases. Reviews, investigates and acts, as appropriate, on all contractual and non-contractual requests, claims, and appeals including preparation of contracting officer's final decisions or the non contractual claims reports, including the seven-paragraph memorandum of opinion, presenting cases before the appropriate Board of Contract Appeals and assisting the Department of Justice and/or US Attorney's office in litigation before courts of the United States and in cases before the courts of the Freely Associated States (consisting of the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau).

10. Labor Relations. Serves as Labor Counselor for the District. Provides advice and counsel on labor relations and labor-management issues within the District. Serves as agency representative in third party proceedings to include the Equal Employment Opportunity Commission, the Merit Systems Protection Board, and the Federal Labor Relations Authority. Provides advice and counsel in labor relations and labor-management litigation. Participates in labor-management partnership activities.

11. Federal Tort Claims and Admiralty Claims. Provides advice and counsel on issues involving tort and admiralty claims and appeals originating within the District. Decides tort claims under \$25,000.00 and implements settlement authority for admiralty claims under \$100,000.00.

12. General Law. Provides advice and guidance on the processing of Freedom of Information Act and Privacy Act requests. Renders advice and counsel on statutory interpretation and authority issues, to include fiscal law, the annual Appropriation and Authorization Acts, laws pertaining to Native Hawaiians, State of Hawaii Law, Federal and State Tax Laws, and Labor Law.

13. Environmental Law. Provides advice and guidance to all District elements regarding compliance with environmental laws and procedures applicable to execution of the military construction and civil works missions. Reviews and drafts, as necessary, documents that demonstrate and assure compliance with National Environmental Policy Act, the Endangered Species Act, the National Historic Preservation Act, the Coastal Zone Management Act, the Clean Water Act, and other preservation and restoration laws.
14. Real Estate. Provides District oversight of legal issues and actions pertaining to responsibilities of the attorney assigned as Chief, Real Estate Division. In absence of the real estate attorney, provides advice and counsel on legal issues involving the District's actions to acquire, manage and dispose of real estate.
15. Preventive Law. Renders advice and counsel on Alternate Dispute Resolution techniques and dispute prevention efforts such as partnering and preventive law.
16. Ethics and Professional Responsibility Programs. Manages the District's ethics and professional responsibility programs. Conducts appropriate ethics and procurement integrity training for the District staff. Reviews and processes OGE 450s, Personal Financial Disclosure Statements. Provides legal opinions on issues involving ethics and professional conduct.
17. International Law. Renders advice and counsel on the Compacts of Free Association, and Memorandums of Agreements concerning the District's support to the three Freely Associated States. In support of the District Engineer, attends meetings and consultations with the most senior government officials of the Freely Associated States. Prepares litigation reports and supports Department of Justice in international litigation in the Freely Associated States. All support in the Republic of Palau is presently through the Department of the Interior.
18. Legal Services Management. Manages the quality and provision of legal services within the District, including classifying legal and para-legal positions and fostering career management and development of attorneys. Provides letter input into the performance evaluation of the attorney assigned as the Chief, Real Estate Division.
19. Emergency Management. Renders advice and counsel in support of the District's emergency management mission to include review of disaster relief plans, wartime response and operational plans; and drafts legal annexes to such plans.
20. Provides 'buyback' legal and administrative support to Division Counsel upon request in areas of Division legal responsibility.